

HHS-CMS-CMCS
September 19, 2023
2:00 pm CT

Coordinator: Welcome, and thank you for standing by. At this time, all participants are in listen-only mode. During the Q&A session, if you'd like to ask a question, you may press Star 1 on your phone. Today's call is being recorded. If you have any objections, please disconnect at this time. I'll now turn the call over to Krista Hebert. Thank you, you may begin.

Krista Vrabel Hebert: Hi, everyone, and welcome to today's all-State call. My name is Krista Vrabel Hebert, and I am a Policy Advisor here at the Center for Medicaid and CHIP Services. On today's call, Sarah Harshman from our Division of Benefits and Coverage and our Medicaid Benefits and Health Programs Group, will be providing an important update on the continuing requirements of the COVID-19 HRSA Public Readiness and Emergency Preparedness Act, otherwise known as the PREP Act.

On May 9th, 2023, Secretary Becerra signed the 11th Amendment to the Declaration under the PREP Act for COVID-19 medical countermeasures. This amendment extended the time period of coverage for certain covered countermeasures and covered persons, clarified the time period of coverage

for covered persons authorized under the Declaration, and extended the duration of the Declaration to December 31st, 2024.

The liability protections in the HHS COVID-19 PREP Act Declaration, as outlined in the previous presentations, do not affect or alter the services States must or could opt to cover under the federal Medicaid statute and regulations, but they do affect which healthcare providers are qualified to provide certain otherwise covered services for the purposes of Medicaid free-choice-of-provider requirement at Section 1902(a)(23)(A) of the Social Security Act.

Before Sarah gets started with her presentation, I wanted to let folks know that we will be using the webinar platform to share slides today. If you're not already logged in, I suggest you do so now so that you can see the slides for today's presentation. You can also submit any questions you have into the chat during any time of our presentation. With that, I'm pleased to turn things over to Sarah Harshman. Sarah?

Sarah Harshman: Thanks, Krista, and thank you, everyone, for joining us today. As Krista mentioned, as part of today's call, we'll give an update on the HHS COVID-19 PREP Act requirements as we transition farther from the end of the COVID-19 public health emergency. And we can go to the next slide.

For some background, and as Krista mentioned, on May 9th, Secretary Becerra signed the 11th Amendment to the Declaration under the PREP Act for COVID-19 Medical Countermeasures. In that amendment, HHS extended the time period of coverage for certain countermeasures and covered persons, and extended the duration of the declaration to December 31st, 2024.

As we've discussed in previous all-State calls, these liability protections in the COVID PREP Act declaration do not determine the services States must or

could opt to cover under the federal Medicaid statute and regulations, but they do affect which healthcare providers are qualified to provide certain otherwise covered services for purposes of the Medicaid free-choice-of-provider requirements. Next slide, please.

Now, although the PREP Act doesn't mandate coverage of COVID medical countermeasures, there is currently a mandate from the American Rescue Plan that State Medicaid and CHIP agencies cover COVID-19 testing, vaccinations, and treatment for most beneficiaries until September 30th, 2024.

Until the expiration of the HHS PREP Act, if a practitioner is not authorized or qualified to order and/or administer a covered COVID-19 test, vaccine, or countermeasure under State law, they might be authorized to do so under the HHS COVID-19 PREP Act declaration. If they are authorized under the PREP Act, any conflicting State laws are preempted, and the State must identify a pathway to paying for the Medicaid-covered COVID-19 test vaccinations or countermeasures until December 31st, 2024.

Additionally, States operating separate CHIP programs may not deny reimbursement to a CHIP provider for a COVID-19 test, vaccine, or countermeasure on the basis that the provider is not licensed or authorized under State law to provide that service if the PREP Act permits that provider to do so.

However, as opposed to Medicaid requirements, the PREP Act does not require the State's separate CHIP program to pay providers or provider types it would not otherwise pay under the State plan. And this requirement would also apply through December 31st, 2024. I want to quickly note here, while the rest of the presentation applies to Medicaid requirements, if anyone has

any CHIP-related questions, please let us know in the chat, and we can follow up with more later. Next slide, please.

In the past, we've received a number of questions regarding covered persons as identified in the COVID-19 PREP Act. Currently, there are liability protections provided to pharmacists for ordering and administering COVID-19 tests, vaccines, and countermeasures, and to pharmacy interns and qualified pharmacy technicians for administering those same services.

As outlined in HHS guidance, a pharmacy is authorized to administer COVID-19 testing, vaccinations, and countermeasures when it is ordered and administered by staff pharmacists, or if it's administered by staff pharmacy interns or technicians, consistent with the declaration, even if State law would not permit otherwise.

To pay for COVID-19 tests, vaccines, and countermeasures ordered and or administered by its pharmacy practitioners, a State may need to enroll either the pharmacy or pharmacy practitioners or both as Medicaid providers. Understanding that some States may not enroll individual pharmacists in their programs, States that do not provide a pathway to enrollment may pay a qualified and enrolled pharmacy as the furnishing or ordering provider.

In States that do recognize individual pharmacists, pharmacy interns, or technicians as a Medicaid provider type eligible to enroll, the practitioner, not the pharmacy, would be considered the furnishing or ordering Medicaid provider of the COVID-19 vaccines or countermeasures they are authorized to order and/or administer under the COVID-19 PREP Act declaration or under State law, and must be enrolled in order to be paid for these services.

In this later scenario, a pharmacy may bill for and receive Medicaid payment

on behalf of its enrolled employee or contracted practitioners who have reassigned their right to payment, consisted with Medicaid regulations at 42 CFR 447.10(g). Also, as always, States can explore updating State laws to authorize pharmacists and other pharmacy practitioners to order and/or administer COVID-19 tests, vaccines, and countermeasures. Next slide, please.

I know that was a lot of information to throw at you. So, in short, Medicaid pays for COVID-19 tests, vaccines, and countermeasures ordered and/or administered by applicable providers, including pharmacists, pharmacy technicians, or pharmacy interns, if, one, the practitioner is qualified to provide the service under either the PEP Act or State law, two, either the practitioner or in the case of pharmacy providers, the pharmacy they work for or both are enrolled as a Medicaid provider, three, the service is covered by Medicaid, and four, the services provided to an eligible Medicaid beneficiary.

States that want to adjust any COVID-19-related Medicaid or CHIP payment methodologies to reflect the current December 31st, 2024 end date for the PREP Act's liability protections related to COVID-19 testing, vaccines, and countermeasures to review their approved State plans to determine if a State plan amendment is necessary.

Also, for more information about PREP Act requirements, CMS has issued guidance about the Medicaid implications of HHS's PREP Act declarations as part of the Medicaid COVID-19 Vaccine Toolkit. While we have not issued any guidance about this policy in the COVID-19 testing or countermeasure context, the same general principles would apply to any PREP Act-covered countermeasure that is also a Medicaid-covered service. And with that, that wraps up today's presentation. Krista, I'll give it back to you to open up for Q&A.

Krista Vrabel Hebert: Thank you so much. If anyone has a question, if you can please enter it into the chat function now, then we will begin to take questions. Thank you. I'm not seeing any questions in the chat. So, just a reminder, if you have any questions, regardless of whether it's about this presentation or just open Q&A, please feel free to enter them into the chat at this time. And (Ted), maybe can you help open the phone lines? I'm still not seeing any questions in the chat.

Coordinator: Yes, the phone lines are now open for questions. If you would like to ask a question over the phone, please press Star 1 and record your name. If you'd like to withdraw your question, press Star 2. Thank you. And again, if you would like to ask a question over the phone, please press Star 1. I'm currently showing no phone questions.

Krista Vrabel Hebert: Great, and I also am not seeing any questions in the chat. Maybe we'll just give it two more minutes before we close things down. Just a reminder, if folks have questions about the PREP Act or anything else, you can feel free to drop them in the chat.

Coordinator: And to ask a question over the phone, please press Star 1.

Krista Vrabel Hebert: All right, (Ted), well, I'm still not seeing any questions in the chat, so I think at this time we will go ahead and conclude the all-State call early today. Thank you, everyone, who joined, and also thank you, Sarah Harshman, for the presentation. Have a great rest of your afternoon.

Coordinator: This concludes today's call. Thank you for your participation. You may disconnect at this time.

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